

**§ 783. Punishment for violations of law; liability of vessels.**

Every person, partnership, or association guilty of a violation of the provisions of this chapter shall be liable to a fine of not more than \$500, and in addition such fine shall be a lien against the vessel or boat on which the offense is committed, and said vessel or boat shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense. (Aug. 15, 1914, ch. 253, § 3, 38 Stat. 692.)

**§ 784. Jurisdiction of prosecutions.**

Any violation of the provisions of this chapter shall be prosecuted in the district court of the United States of the district wherein the offender is found or into which he is first brought. (Aug. 15, 1914, ch. 253, § 4, 38 Stat. 692.)

**§ 785. Enforcement of law prohibiting taking of sponges of specified sizes; employment of Coast Guard vessels and Customs Service employees.**

The Secretary of the Interior shall enforce the provisions of this chapter, and he is authorized to empower such officers and employees of the Department of the Interior as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and upon his request the Secretary of the Treasury may employ the vessels of the Coast Guard or the employees of the Customs Service to that end. (Aug. 15, 1914, ch. 253, § 5, 38 Stat. 692; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 561.)

**AMENDMENTS**

1949—Act Aug. 4, 1949, reestablished the Coast Guard and repealed act Jan. 28, 1915, ch. 20, § 1, 58 Stat. 800.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Aug. 4, 1949, effective the first day of the third month after the month of approval, August 1949, see note set out preceding chapter 1 of Title 14, Coast Guard.

**TRANSFER OF FUNCTIONS**

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Customs Service, referred to in this section, is a service under the Treasury Department, and the Coast Guard, also referred to in this section, is generally a service under such Department, but such Plan excepted, from the transfer, functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

1939 Reorg. Plan No. II, which is set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees, transferred the Bureau of Fisheries in the Department of Commerce and its functions to the Department of the Interior, to be administered under the direction and supervision of the Secretary of the Interior.

1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, also set out in note under section 133t, of Title 5, Executive Departments and Government Officers and Employees, consolidated the Bureau of Fisheries and the Bureau of Biological Survey with their respective functions into one agency in the Department of the Interior to be known as the Fish and Wildlife Service, and provided that the functions of the consolidated agency shall be administered under the direction and supervision of the Secretary of the Interior.

**Chapter 12.—FEDERAL REGULATION AND DEVELOPMENT OF POWER**

**SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES**

- Sec.
- 791. Repealed.
- 791a. Short title.
- 792. Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions.
- 793. Same; officers and employees; appointment, duties, and salaries; detail of officers and employees from other departments; expenditures authorized.
- 793a. Repealed.
- 794. Performance of work of commission generally.
- 795. Expenses of commission generally; subsistence allowance to employees on field work.
- 796. Definitions.
- 797. General powers of commission.
  - (a) Investigations and data.
  - (b) Statements as to investment of licenses in projects; access to projects, maps and so forth.
  - (c) Cooperation with executive departments; information and aid furnished commission.
  - (d) Publication of information, and so forth; reports to Congress.
  - (e) Issue of licenses for construction, and so forth, of dams, conduits, reservoirs, and so forth.
  - (f) Preliminary permits; notice of application.
  - (g) Investigation of occupancy for developing power; orders.
- 797a. Congressional authorization for permits, licenses, leases, or authorizations for dams, conduits, reservoirs, etc., within national parks or monuments.
- 798. Purpose and scope of preliminary permits; transfer and cancellation.
- 799. License; duration, conditions, revocation, alteration, or surrender.
- 800. Preferences in issuance of preliminary permits or licenses.
- 801. Transfer of license; obligations of transferee.
- 802. Information to accompany application for license.
- 803. Conditions of license generally.
  - (a) Modification of plans, etc., to secure adaptability of project.
  - (b) Alterations in project works.
  - (c) Maintenance and repair of project works; liability of licensee for damages.
  - (d) Amortization reserves.
  - (e) Annual charges payable by licensees.
  - (f) Reimbursement by licensee of other licensees, and so forth.
  - (g) Conditions in discretion of commission.
  - (h) Monopolistic combinations prohibited.
  - (i) Waiver of conditions.
- 804. Project works affecting navigable waters; requirements insertable in license.
- 805. Participation by Government in costs of locks, and so forth.

- Sec.  
806. Time limit for construction of project works; extension of time; termination or revocation of licenses for delay.  
807. Right of Government to take over project works; compensation; condemnation by Federal or State Government.  
808. New licenses and renewals; compensation of old licensee.  
809. Temporary use by Government of project works for national safety; compensation for use.  
810. Disposition of charges arising from licenses.  
811. Operation of navigation facilities; rules and regulations; penalties.  
812. Public-service licensee; regulations by State or by commission as to service, rates, charges, etc.  
813. Power entering into interstate commerce; regulation of rates, charges, and so forth.  
814. Exercise by licensee of power of eminent domain.  
815. Contract to furnish power extending beyond period of license; obligations of new licensee.  
816. Preservation of rights vested prior to June 10, 1920.  
817. Projects not affecting navigable waters; necessity for Federal license.  
818. Public lands included in project; reservation of lands from entry.  
819. Repealed.  
820. Proceedings in equity for revocation of license or to prevent violations of license.  
821. State laws and water rights unaffected.  
822. Reservation of right to alter or repeal chapter.  
823. Repeal of inconsistent laws.

#### SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

824. Declaration of policy; application of subchapter; definitions.  
824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries.  
    (a) Regional districts; establishment; notice to State commissions.  
    (b) Sale or exchange of energy; establishing physical connections.  
    (c) Temporary connection and exchange of facilities during emergency.  
    (d) Temporary connection during emergency by persons without jurisdiction of Commission.  
    (e) Transmission of electric energy to foreign country.  
    (f) Transmission or sale at wholesale of electric energy; regulation.  
824b. Disposition of property; consolidations; purchase of securities.  
824c. Issuance of securities; assumption of liabilities; filing duplicate reports with Securities and Exchange Commission.  
824d. Rates and charges; schedules; suspension of new rates.  
824e. Power of Commission to fix rates and charges; determination of cost of production or transmission.  
824f. Ordering furnishing of adequate service.  
824g. Ascertainment of cost of property and depreciation.  
824h. Joint boards; composition; references to boards by Commission; cooperation with State commissions.

#### SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

825. Accounts, records and memoranda; duty to keep; examination by Commission; disclosure of information.  
825a. Rates of depreciation; notice to State authorities before fixing.  
825b. Requirements applicable to agencies of United States.  
825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.  
825d. Officials dealing in securities; declaring dividends out of capital account; interlocking directorates.  
825e. Complaints.  
825f. Investigations by Commission; attendance of witnesses; depositions; immunity of witnesses.

- Sec.  
825g. Hearings; rules of procedure.  
825h. Administrative powers of Commission; rules, regulations, and orders.  
825i. Appointment of officers and employees; compensation.  
825j. Investigations relating to electric energy; reports to Congress.  
825k. Publication and sale of reports.  
825l. Rehearings; court review of orders.  
825m. Restraining violations; mandamus to compel compliance with law; employment of attorneys.  
825n. Forfeiture for violations; recovery.  
825o. Penalties.  
825p. Jurisdiction of offenses; enforcement of liabilities and duties.  
825q. Conflict of jurisdiction.  
825r. Separability of provisions.  
825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys.  
825s-1. Same; southwestern area; disposition of receipts; creation of continuing fund; use of fund.  
825s-2. Same; southeastern area; disposition of receipts; creation of continuing fund; use of fund.  
825t. Utilization of power revenues.  
825u. Interest rate on power bonds held by Administrator of General Services.

#### SUBCHAPTER IV—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

828. Facilitation of development and construction of water conservation facilities; exemption from certain Federal requirements.  
828a. Definitions.  
828b. Exemption from formula, books and records, and project cost statement requirements; annual charges.  
828c. Applicability of this chapter.

#### APPLICATION TO NATIONAL PARKS

- Acadia National Park, see section 342b of this title.  
Big Bend National Park, see section 158 of this title.  
Bryce Canyon National Park, see section 402e of this title.  
Carlsbad Caverns National Park, see section 407b of this title.  
Everglades National Park, see section 410b of this title.  
Grand Canyon National Park, see section 221b of this title.  
Great Smoky Mountains National Park, see section 403b of this title.  
Isle Royale National Park, see section 408b of this title.  
Lands reserved for park purposes in Coos County, Oregon, see section 405 of this title.  
Lassen Volcanic National Park, see sections 201b, 204i, 205a, and 207a of this title.  
Mammoth Cave National Park, see section 404b of this title.  
Mount Rainier National Park, see section 108 of this title.  
Rocky Mountain National Park, see section 197 of this title.  
Shenandoah National Park, see section 403b of this title.  
Yellowstone National Park, see section 21b of this title.  
Yosemite National Park, see section 47i of this title.

#### SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

Section 212 of act of Aug. 26, 1935, ch. 687, 49 Stat. 847, provided that sections 1 to 29 of the Federal Water Power Act, as amended (sections 792, 793, 794 [eliminated], 795—797, 798—818, 819 [repealed], and 820—823 of this title) shall constitute Subchapter I of the act, as set out above. Said section 212 also repealed sections 25 and 30 of the act (former sections 819, 791 of this title). It also contained a proviso as follows: "That nothing in that Act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power

Act approved March 3, 1921 (41 Stat. 1353 [section 797 of this title]), or the provisions of any other Act relating to national parks and national monuments."

**§ 791. Repealed.** Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.

Section, act June 10, 1920, ch. 285, § 30, 41 Stat. 1077, designated the act as The Federal Water Power Act.

**§ 791a. Short title.**

This chapter may be cited as the "Federal Power Act." (June 10, 1920, ch. 285, § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

**§ 792. Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions.**

A commission is created and established to be known as the Federal Power Commission (hereinafter referred to as the "commission") which shall be composed of five commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman and shall be the principal executive officer of the commission. Each chairman, when so designated, shall act as such until the expiration of his term of office.

The commissioners first appointed under this section, as amended, shall continue in office for terms of one, two, three, four, and five years, respectively, from June 23, 1930, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of commissioners. Said commissioners shall not engage in any other business, vocation, or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. Three members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal of which judicial notice shall be taken. The commission shall annually elect a vice chairman to act in case of the absence or disability of the chairman or in case of a vacancy in the office of chairman.

Each commissioner shall receive basic compensation at the rate of \$15,000 per annum, together with necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law, while away from the seat of government upon official business.

The principal office of the commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. (June 10, 1920, ch. 285, § 1, 41 Stat. 1063; June 23, 1930, ch. 572, § 1, 46 Stat. 797; Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880; 1950 Reorg. Plan No. 9, § 3, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265; July 12, 1960, Pub. L. 86-619, § 1, 74 Stat. 407.)

#### AMENDMENTS

1960—Pub. L. 86-619 provided for continuation in office of a commissioner upon termination of his term until a successor is appointed and has qualified, not beyond expiration of next session of Congress subsequent to the expiration of said fixed term of office.

1949—Act Oct. 15, 1949 increased compensation of members from \$10,000 to \$15,000 per annum.

1930—Prior to the amendment by act June 23, 1930, this section read as follows: "A commission is hereby created and established, to be known as the Federal Power Commission (hereinafter referred to as the commission), which shall be composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. Two members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal, which shall be judicially noticed. The President shall designate the chairman of the commission."

#### COMPENSATION OF MEMBERS OF FEDERAL POWER COMMISSION

Compensation of Chairman, and members of the Commission, see section 2211 of Title 5, Executive Departments and Government Officers and Employees.

#### DESIGNATION OF CHAIRMAN

1950 Reorg. Plan No. 9, set out below, transferred the functions of the Federal Power Commission with respect to choosing its Chairman from among the membership thereof to the President.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, set out below.

#### REORGANIZATION PLAN NO. 9 OF 1950

Eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

#### FEDERAL POWER COMMISSION

##### § 1. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Power Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed

by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

#### § 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

#### § 3. DESIGNATION OF CHAIRMAN

The functions of the Commission with respect to choosing a Chairman from among the commissioners composing the Commission are hereby transferred to the President.

**§ 793. Same; officers and employees; appointment, duties, and salaries; detail of officers and employees from other departments; expenditures authorized.**

The commission may, subject to the civil service laws, appoint and prescribe the duties of a secretary, a chief engineer, a general counsel, a solicitor, and a chief accountant and appoint such other officers and employees as are necessary in the execution of its functions and fix their salaries in accordance with the Classification Act of 1949. The commission may request the President to detail an officer or officers from the Corps of Engineers, or other branches of the United States Army, to serve the commission as engineer officer or officers, or in any other capacity, in field work outside the seat of government, their duties to be prescribed by the commission; and such detail is authorized. The President may also, at the request of the commission, detail, assign, or transfer to the commission, engineers in or under the Departments of the Interior or Agriculture for field work outside the seat of government under the direction of the commission.

The commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding) as are necessary to execute its functions. Expenditures by the commission shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission or by such other member or officer as may be authorized by the commission for that purpose subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended. (June 10, 1920, ch. 285, § 2, 41 Stat. 1063; June 23, 1930, ch. 572, § 1, 46 Stat. 798; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; Oct. 31, 1951, ch. 654, § 2 (14), 65 Stat. 707.)

#### REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Executive Departments and Government Officers and Employees.

The Classification Act of 1949, referred to in the text, is classified to chapter 21 of Title 5.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in the text, is classified to chapter 11C of Title 5, Executive Departments and Government Officers and Employees, chapter 10 of Title 40, Public Buildings, Property, and Works, section 5 and chapter 4 of Title 41, Public Contracts, and chapter 11 of Title 44, Public Printing and Documents.

#### CODIFICATION

Provisions which authorized appointment of a secretary, a chief engineer, a general counsel, a solicitor, and a chief accountant without regard to the civil service laws, were omitted since the positions referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by section 631a of Title 5, Executive Departments and Government Officers and Employees. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 631a of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see sections 1081 and 1082 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 1083 of Title 5.

#### AMENDMENTS

1951—Act Oct. 31, 1951, inserted the reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, at end of section.

1949—Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

**§ 793a. Repealed.** Pub. L. 87-367, title I, § 103(5), Oct. 4, 1961, 75 Stat. 787.

Section, Pub. L. 87-626, title I, § 101, July 12, 1960, 74 Stat. 430, authorized the Federal Power Commission to place four additional positions in grade 18, one in grade 17 and one in grade 16 of the General Schedule of the Classification Act of 1949 (chapter 21 of Title 5, Executive Departments and Government Officers and Employees).

#### SAVINGS PROVISIONS

Positions existing prior to Oct. 4, 1961, compensation and appointments thereto unaffected by changes made by Pub. L. 87-367 and positions in grades 16, 17 and 18 of the General Schedule of the Classification Act of 1949 prior to Oct. 4, 1961, to remain in respective grades, until appropriate action is taken under title I of Pub. L. 87-367 and section 1105 of Title 5, see section 104 of Pub. L. 87-367, set out as a note under section 1105 of Title 5, Executive Departments and Government Officers and Employees.

**§ 794. Performance of work of commission generally.**

#### CODIFICATION

Section, act June 10, 1920, ch. 285, § 2, 41 Stat. 1063, is covered by section 793 of this title.

**§ 795. Expenses of commission generally; subsistence allowance to employees on field work.**

All the expenses of the commission, including rent in the District of Columbia, all necessary expenses for transportation and subsistence, including, in the discretion of the commission, a per diem of not exceeding \$9 in lieu of subsistence incurred by its employees under its orders in making any investigation, or conducting field work, or upon official business outside of the District of Columbia and away from

their designated points of duty, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by a member or officer of the commission duly authorized for that purpose. (June 10, 1920, ch. 285, § 2, 41 Stat. 1063; June 9, 1949, ch. 185, § 9, 63 Stat. 167.)

#### AMENDMENTS

1949—Act June 9, 1949 increased the per diem allowance from \$4 to \$9.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### CROSS REFERENCES

Expenditures by commission authorized, see section 793 of this title.

Subsistence allowances generally, see chapter 16 of Title 5, Executive Departments and Government Officers and Employees.

#### § 796. Definitions.

The words defined in this section shall have the following meanings for purposes of this chapter, to wit:

(1) "public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include "reservations", as hereinafter defined;

(2) "reservations" means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks;

(3) "corporation" means any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. It shall not include "municipalities" as hereinafter defined;

(4) "person" means an individual or a corporation;

(5) "licensee" means any person, State, or municipality licensed under the provisions of section 797 of this title, and any assignee or successor in interest thereof;

(6) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States;

(7) "municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power;

(8) "navigable waters" means those parts of streams or other bodies of water over which Con-

gress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids, together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority;

(9) "municipal purposes" means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality;

(10) "Government dam" means a dam or other work constructed or owned by the United States for Government purposes with or without contribution from others;

(11) "project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water-rights, rights-of-way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit;

(12) "project works" means the physical structures of a project;

(13) "net investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission", plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, insofar as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall insofar as applicable

be published and promulgated as a part of the rules and regulations of the Commission;

(14) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively;

(15) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality;

(16) "security" means any note, stock, treasury stock, bond, debenture, or other evidence of interest in or indebtedness of a corporation subject to the provisions of this chapter.

(June 10, 1920, ch. 285, § 3, 41 Stat. 1063; Aug. 26, 1935, ch. 687, title II, § 201, 49 Stat. 838.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935 amended definitions of "reservations" and "corporations", and added definitions of "person", "licensee", "commission", "commissioner", "state commission" and "security".

#### § 797. General powers of commission.

The commission is authorized and empowered—

##### (a) Investigations and data.

To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the commission may deem necessary or useful for the purposes of this chapter.

##### (b) Statements as to investment of licenses in projects; access to projects, maps and so forth.

To determine the actual legitimate original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

##### (c) Cooperation with executive departments; information and aid furnished commission.

To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the commission, to furnish such records, papers, and information in their possession as may be requested by the commission, and temporarily to detail to the commission such officers or experts as may be necessary in such investigations.

##### (d) Publication of information, and so forth; reports to Congress.

To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under sections 792, 793, 795—818, and 820—823 of this title, and in each case the parties thereto, the terms prescribed, and the moneys received if any, or account thereof. Such report shall contain the names and show the compensation of the persons employed by the Commission.

##### (e) Issue of licenses for construction, and so forth, of dams, conduits, reservoirs, and so forth.

To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservations: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of the Army. Whenever the contemplated improvement is, in the judgment of the commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or

waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the commission and shall become a part of the records of the commission: *Provided further*, That in case the commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

(f) Preliminary permits; notice of application.

To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 802 of this title: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application once each week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

(g) Investigation of occupancy for developing power; orders.

Upon its own motion to order an investigation of any occupancy of, or evidenced intention to occupy, for the purpose of developing electric power, public lands, reservations, or streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States by any person, corporation, State, or municipality and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the navigation and water-power resources of the region. (June 10, 1920, ch. 285, § 4, 41 Stat. 1065; June 23, 1930, ch. 572, § 2, 46 Stat. 798; Aug. 26, 1935, ch. 687, title II, § 202, 49 Stat. 839.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1935—Subsec. (a). Act Aug. 26, 1935, eliminated last paragraph of subsec. (a) and embodied its subject matter in subsec. (b).

Subsec. (b). Act Aug. 26, 1935, embodied the subject matter of the former last paragraph of subsec. (a) in subsec. (b).

Subsec. (c). Act Aug. 26, 1935, redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated (d).

Subsec. (d). Act Aug. 26, 1935, redesignated former subsec. (c) as (d) and substituted "3rd day of January" for "first Monday in December" in second sentence. Former subsec. (d) was redesignated (e).

Subsec. (e). Act Aug. 26, 1935, redesignated former subsec. (d) as (e) and substituted "streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several states" for "navigable waters of the United States" and "subsection (f)" for "subsection (e)" in the last proviso.

Subsec. (f). Act Aug. 26, 1935, redesignated former subsec. (e) as (f) and substituted "once each week for four weeks" for "eight weeks".

Subsec. (g). Act Aug. 26, 1935, added subsec. (g).

1930—Subsec. (d). Act June 23, 1930, added sentence respecting contents of report.

REPEALS

Section 212 of act Aug. 26, 1935, provided that nothing in this chapter, as amended, should be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act by the act of Mar. 3, 1921, incorporated in this section.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

EMERGENCY PREPAREDNESS FUNCTIONS

Ex. Ord. No. 11095, Feb. 26, 1963, 28 F.R. 1859, directed the Federal Power Commission to prepare national emergency plans and develop preparedness programs covering functions assigned to it by the Executive Order, designed to develop a state of readiness with respect to all conditions of national emergency, including attack upon the United States.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 797a. Congressional authorization for permits, licenses, leases, or authorizations for dams, conduits, reservoirs, etc., within national parks or monuments.

On and after March 3, 1921, no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as constituted, March 3, 1921, of any national park or national monument shall be granted or made without specific authority of Congress. (Mar. 3, 1921, ch. 129, 41 Stat. 1353.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which comprises this chapter.

§ 798. Purpose and scope of preliminary permits; transfer and cancellation.

Each preliminary permit issued under sections 792, 793, 795—818 and 820—823 of this title shall be for the sole purpose of maintaining priority of appli-



cation for a license under the terms of this chapter for such period or periods, not exceeding a total of three years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing. (June 10, 1920, ch. 285, ch. § 5, 41 Stat. 1067; Aug. 26, 1935, ch. 687, title II, § 203, 49 Stat. 841.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935, eliminated "and a license issued" which appeared at the end of the second sentence and added "or for other good cause shown after notice and opportunity for hearing" onto the last sentence.

#### § 799. License; duration, conditions, revocation, alteration, or surrender.

Licenses under sections 792, 793, 795—818, and 820—823 of this title shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all of the terms and conditions of this chapter and such further conditions, if any, as the Commission shall prescribe in conformity with this chapter, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this chapter, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice. Copies of all licenses issued under the provisions of sections of 792, 793, 795—818, and 820—823 of this title and calling for the payment of annual charges shall be deposited with the General Accounting Office, in compliance with section 20 of Title 41. (June 10, 1920, ch. 285, § 6, 41 Stat. 1067; Aug. 26, 1935, ch. 687, title II, § 204, 49 Stat. 841.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935, substituted "thirty days" for "ninety days" in the third sentence and added the last sentence to the section.

#### § 800. Preferences in issuance of preliminary permits or licenses.

(a) In issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 808 of this title the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are

deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

(b) Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with such recommendations as it may find appropriate concerning such development. (June 10, 1920, ch. 285, § 7, 41 Stat. 1067; Aug. 26, 1935, ch. 687, title II, § 205, 49 Stat. 842.)

#### CODIFICATION

Additional provisions in the section as enacted by act June 10, 1920, directing the commission to investigate the cost and economic value of the power plant outlined in project numbered 3, House Document numbered 1400, Sixty-second Congress, third session, and also in connection with such project to submit plans and estimates of cost necessary to secure an increased water supply for the District of Columbia, have been omitted as temporary and executed.

#### AMENDMENTS

1935—Subsec. (a). Act Aug. 26, 1935, eliminated "navigation and" preceding "water resources" wherever appearing, and lettered the paragraphs (a) and (b).

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, § 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 801. Transfer of license; obligations of transferee.

No voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such licensee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this chapter to the same extent as though such successor or assign were the original licensee under this chapter: *Provided*, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfers within the meaning of this section. (June 10, 1920, ch. 285, § 8, 41 Stat. 1068.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.



## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan. No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 802. Information to accompany application for license.

Each applicant for a license under this chapter shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(b) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting and distributing power, and in any other business necessary to effect the purposes of a license under this chapter.

(c) Such additional information as the commission may require. (June 10, 1920, ch. 285, § 9, 41 Stat. 1068.)

## REFERENCES IN TEXT

This chapter, referred to in the text, was in the original, "hereunder", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## § 803. Conditions of license generally.

All licenses issued under sections 792, 793, 795—818, and 820—823 of this title shall be on the following conditions:

(a) Modification of plans, etc., to secure adaptability of project.

That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes; and if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(b) Alterations in project works.

That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam, or other project works constructed hereunder of an installed capacity in excess of two thousand horse-

power without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct.

(c) Maintenance and repair of project works; liability of licensee for damages.

That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license and in no event shall the United States be liable therefor.

(d) Amortization reserves.

That after the first twenty years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the net investment of a licensee in any project or projects under license, the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the Commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

(e) Annual charges payable by licensees.

That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of sections 792, 793, 795—818, and 820—823 of this title; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the Commission shall seek to avoid increasing the price to the consumers of power by such charges, and any such charges may be adjusted from time to time by the Commission as conditions may require: *Provided*, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the Commission shall, subject to the approval of the Secretary of the Interior in the case of such dams or structures in reclamation projects and, in the case of such tribal lands, subject to the approval of the Indian tribe having jurisdiction of such lands as provided in section 476 of Title 25, fix a reasonable annual charge for the use thereof, and such charges may with like approval be readjusted

by the Commission at the end of twenty years after the project is available for service and at periods of not less than ten years thereafter upon notice and opportunity for hearing: *Provided further*, That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation, licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than two thousand horsepower installed capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the Commission. In the event an overpayment of any charge due under this section shall be made by a licensee, the Commission is authorized to allow a credit for such overpayment when charges are due for any subsequent period.

**(f) Reimbursement by licensee of other licensees, and so forth.**

That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission.

Whenever such reservoir or other improvement is constructed by the United States the Commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 810 of this title.

Whenever any power project not under license is benefited by the construction work of a licensee or permittee, the United States or any agency thereof, the Commission, after notice to the owner or owners of such unlicensed project, shall determine and fix a reasonable and equitable annual charge to be paid to the licensee or permittee on account of such benefits, or to the United States if it be the owner of such headwater improvement.

**(g) Conditions in discretion of commission.**

Such other conditions not inconsistent with the provisions of this chapter as the commission may require.

**(h) Monopolistic combinations prohibited.**

Combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

**(i) Waiver of conditions.**

In issuing licenses for a minor part only of a complete project, or for a complete project of not more than two thousand horsepower installed capacity, the Commission may in its discretion waive such conditions, provisions, and requirements of sections 792, 793, 795—818, and 820—823 of this title, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions of said section shall not apply to annual charges for use of lands within Indian reservations. (June 10, 1920, ch. 285, § 10, 41 Stat. 1068; Aug. 26, 1935, ch. 687, title II, § 206, 49 Stat. 842; Sept. 7, 1962, Pub. L. 87-647, 76 Stat. 447.)

**REFERENCES IN TEXT**

This chapter, referred to subsec. (g), was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

**AMENDMENTS**

1962—Subsec. (b). Pub. L. 87-647 substituted "two thousand horsepower" for "one hundred horsepower."

Subsec. (e). Pub. L. 87-647 substituted "two thousand horsepower" for "one hundred horsepower."

Subsec. (i). Pub. L. 87-647 substituted "two thousand horsepower" for "one hundred horsepower."

1935—Subsec. (a). Act Aug. 26, 1935, substituted "plan for improving or developing \* \* \* including recreational purposes" for "scheme of improvement and utilization for the purposes of navigation, of waterpower development, and of other beneficial public purposes" and "such plan" for "such scheme".

Subsec. (b). Act Aug. 26, 1935, inserted "installed" preceding "capacity".

Subsec. (d). Act Aug. 26, 1935, substituted "net investment" for "actual, legitimate investment".

Subsec. (e). Act Aug. 26, 1935, amended subsec. (e) generally.

Subsec. (f). Act Aug. 26, 1935, added last sentence to the first paragraph, and added the last paragraph.

Subsec. (i). Act Aug. 26, 1935, inserted "installed" before "capacity" and changed proviso by inserting "annual charges for use of" before "lands".

**§ 804. Project works affecting navigable waters; requirements insertable in license.**

If the dam or other project works are to be constructed across, along, or in any of the navigable waters of the United States, the commission may, insofar as it deems the same reasonably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(a) That such licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of the Army and made part of such license.

(b) That in case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then whenever the United States shall desire to complete such navigation facilities the licensee shall convey to the United States, free of cost, such of its land and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete such navigation facilities.

(c) That such licensee shall furnish free of cost to the United States power for the operation of such navigation facilities, whether constructed by the licensee or by the United States. (June 10, 1920, ch. 285, § 11, 41 Stat. 1070.)

#### CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

#### § 805. Participation by Government in costs of locks, and so forth.

Whenever application is filed for a project hereunder involving navigable waters of the United States, and the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks or other navigation structures, and that such structures cannot, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in subsection (a) of section 804 of this title, the commission may grant the application with the provision to be expressed in the license that the licensee will install the necessary navigation structures if the Government fails to make provision therefor within a time to be fixed in the license and cause a report upon such project to be prepared, with estimates of cost of the power development and of the navigation structures, and shall submit such report to Congress with such recommendations as it deems appropriate concerning the participation of the United States in the cost of construction of such navigation structures. (June 10, 1920, ch. 285, § 12, 41 Stat. 1070.)

#### § 806. Time limit for construction of project works; extension of time; termination or revocation of licenses for delay.

The licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the com-

mencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission. In case the construction of the project works, or of any specified part thereof, has been begun but not completed within the time prescribed in the license, or as extended by the commission, then the Attorney General, upon the request of the commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 820 of this title. (June 10, 1920, ch. 285, § 13, 41 Stat. 1071.)

#### REFERENCES IN TEXT

Proceedings in equity, referred to in the text, were abolished by the adoption of rule 2 of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure, which provided that "there shall be one form of action to be known as 'civil action'".

#### § 807. Right of Government to take over project works; compensation; condemnation by Federal or State Government.

Upon not less than two years' notice in writing from the commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 796 of this title, and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license, together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be caused by the severance therefrom of property taken, and shall assume all contracts entered into by the licensee with the approval of the Commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by the Commission after notice and opportunity for hearing. Such net investment shall not include or be affected by the value of any lands, rights-of-way, or other property of the United States licensed by the Commission under this chapter, by the license or by good will, going value, or prospective revenues; nor shall the values allowed for water rights, rights-of-way, lands, or interest in lands be in excess of the

actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this chapter at any time by condemnation proceedings upon payment of just compensation is expressly reserved. (June 10, 1920, ch. 285, § 14, 41 Stat. 1071; Aug. 26, 1935, ch. 687, title II, § 207, 49 Stat. 844.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935, amended section generally.

#### § 808. New licenses and renewals; compensation of old licensee.

If the United States does not, at the expiration of the original license, exercise its right to take over, maintain, and operate any project or projects of the licensee, as provided in section 807 of this title, the commission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee, which license may cover any project or projects covered by the original license, and shall be issued on the condition that the new licensee shall, before taking possession of such project or projects, pay such amount, and assume such contracts as the United States is required to do in the manner specified in section 807 of this title: *Provided*, That in the event the United States does not exercise the right to take over or does not issue a license to a new licensee, or issue a new license to the original licensee, upon reasonable terms, then the commission shall issue from year to year an annual license to the then licensee under the terms and conditions of the original license until the property is taken over or a new license is issued as aforesaid. (June 10, 1920, ch. 285, § 15, 41 Stat. 1072.)

#### § 809. Temporary use by Government of project works for national safety; compensation for use.

When in the opinion of the President of the United States, evidenced by a written order addressed to the holder of any license under this chapter, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission upon the basis of a reasonable profit in time of peace, and the cost of

restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee. (June 10, 1920, ch. 285, § 16, 41 Stat. 1072.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "hereunder", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

#### § 810. Disposition of charges arising from licenses.

(a) All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of sections 792, 793, 795—818, and 820—823 of this title, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to "Miscellaneous receipts"; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands and national forests shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests and public lands from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of the Army in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of sections 792, 793, 795—818, and 820—823 of this title shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

(b) In case of delinquency on the part of any licensee in the payment of annual charges a penalty of 5 per centum of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 per centum for each subsequent month until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law. (June 10, 1920, ch. 285, § 17, 41 Stat.

1072; Aug. 26, 1935, ch. 687, title II, § 208, 49 Stat. 845.)

#### REFERENCES IN TEXT

The act of Congress known as the Reclamation Act, approved June 17, 1902, referred to in subsec. (a), is classified to sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of Title 43, Public Lands.

#### CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

#### AMENDMENTS

1935—Act. Aug. 26, 1935, designated existing provisions as subsec. (a) and added "except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this Part," substituted "national forests" for "national monuments, national forests, and national parks" wherever appearing, added the last sentence relating to payment of proceeds of charges into Treasury, and added subsec. (b).

#### § 811. Operation of navigation facilities; rules and regulations; penalties.

The Commission shall require the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this chapter, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 825o of this title. (June 10, 1920, ch. 285, § 18, 41 Stat. 1073; Aug. 26, 1935, ch. 687, title II, § 209, 49 Stat. 845; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; June 4, 1956, ch. 351, § 2, 70 Stat. 226.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

#### AMENDMENTS

1956—Act June 4, 1956, substituted "secretary of the Department in which the Coast Guard is operating" for "secretary of War" in the first sentence.

1935—Act Aug. 26, 1935, added first sentence, eliminated clause which read "Such rules and regulations may include the maintenance and operation of such licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce.", and substituted section "825o" for section "819".

#### TRANSFER OF FUNCTIONS

1939 Reorg. Plan No. II transferred the Bureau of Fisheries in the Department of Commerce and its functions to the Department of the Interior, to be administered under the direction and supervision of the Secretary of the Interior.

#### § 812. Public-service licensee; regulations by State or by commission as to service, rates, charges, etc.

As a condition of the license, every licensee under this chapter which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing, transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee under this chapter or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customer engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter. (June 10, 1920, ch. 285, § 19, 41 Stat. 1073.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "hereunder", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### § 813. Power entering into interstate commerce; regulation of rates, charges, and so forth.

When said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and

distribution or use in public service shall be reasonable, nondiscriminatory, and just to the customer and all unreasonable discriminatory and unjust rates or services are prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties, or such States are unable to agree through their properly constituted authorities on the services to be rendered, or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is conferred upon the commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the Act to regulate commerce approved February 4, 1887, as amended, and the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 807 of this title for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this chapter. (June 10, 1920, ch. 285, § 20, 41 Stat. 1073.)

#### REFERENCES IN TEXT

The Act to regulate commerce, approved February 4, 1887, as amended, referred to in text, is the Interstate Commerce Act, which, as amended, is incorporated in Title 49, Transportation. For classification of Parts constituting Interstate Commerce Act, as amended, see note preceding section 1 of Title 49.

This chapter, referred to in text, was in the original "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818, and 820—825r of this title] to this chapter.

#### § 814. Exercise by licensee of power of eminent domain.

When any licensee cannot acquire by contract or pledges an unimproved dam site or the right to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works

appurtenant or accessory thereto, in conjunction with an improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000. (June 10, 1920, ch. 285, § 21, 41 Stat. 1074.)

#### CROSS REFERENCES

Jurisdiction of Federal courts, amount to exceed \$10,000, see sections 1331 and 1332 of Title 28, Judiciary and Judicial Procedure.

#### FEDERAL RULES OF CIVIL PROCEDURE

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix, Judiciary and Judicial Procedure.

#### § 815. Contract to furnish power extending beyond period of license; obligations of new licensee.

Whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service commission, then upon the approval of the commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts. (June 10, 1920, ch. 285, § 22, 41 Stat. 1074.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, § 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 816. Preservation of rights vested prior to June 10, 1920.

The provisions of sections 792, 793, 795—818, and 820—823 of this title shall not be construed as affecting any permit or valid existing right-of-way granted prior to June 10, 1920, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way, or authority may apply for a license under this chapter, and upon such application the Commission may issue to any such applicant a license in

accordance with the provisions of said sections and in such case the provisions of this chapter shall apply to such applicant as a licensee under this chapter: *Provided*, That when application is made for a license under this section for a project or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of sections 792, 793, 795—818, and 820—823 of this title and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing. (June 10, 1920, ch. 285, § 23, 41 Stat. 1075; Aug. 26, 1935, ch. 687, title II, § 210, 49 Stat. 846.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935, amended section by substituting the word "part" for "chapter" wherever it appeared, by substituting the word "heretofore" for "then" and by substituting the last sentence for "Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they can not agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value."

#### § 817. Projects not affecting navigable waters; necessity for Federal license.

It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this chapter. Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined in this chapter as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under

the provisions of this chapter. If the Commission shall not so find, and if no public lands or reservations are affected, permission is granted to construct such dam or other project works in such stream upon compliance with State laws. (June 10, 1920, ch. 285, § 23, 41 Stat. 1075; Aug. 26, 1935, ch. 687, title II, § 210, 49 Stat. 846.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### AMENDMENTS

1935—Act Aug. 26, 1935, added first sentence to section, and substituted "with foreign nations" for "between foreign nations", "shall before such construction" for "may in their discretion" and "shall not construct, maintain, or operate such dam or other project works" for "shall not proceed with such construction".

#### § 818. Public lands included in project; reservation of lands from entry.

Any lands of the United States included in any proposed project under the provisions of sections 792, 793, 795—818, and 820—823 of this title shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of sections 792, 793, 795—818, and 820—823 of this title, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of sections 792, 793, 795—818, and 820—823 of this title, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or



electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: *Provided further*, That before any lands applied for, or heretofore or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with the Federal Power Commission; and any location, entry, or selection of such lands, or subsequent patent thereof, shall be subject to any rights granted the State pursuant to such application. (June 10, 1920, ch. 285, § 24, 41 Stat. 1075; Aug. 26, 1935, ch. 687, title II, § 211, 49 Stat. 846; May 28, 1948, ch. 351, 62 Stat. 275.)

#### AMENDMENTS

1948—Act May 28, 1948, added second proviso to the last sentence so that States may apply for reservations of portions of power sites released for entry, location, or selection to the States for highway purposes.

1935—Act Aug. 26, 1935, added "for such purpose or purposes and under such restrictions as the commission may determine", substituted "part" for "chapter" wherever appearing, and eliminated from the proviso "prior to June 10, 1920" following "made".

§ 819. Repealed. Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847.

Section, act June 10, 1920, ch. 285, § 25, 41 Stat. 1076, related to offenses and punishment and is now covered by section 825m et seq. of this title.

§ 820. Proceedings in equity for revocation of license or to prevent violations of license.

The Attorney General may, on request of the commission or of the Secretary of the Army, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this chapter or of any lawful regulation or order promulgated hereunder. The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders and decrees to compel compliance with the lawful orders and regulations of the commission and of the Secretary of the Army, and to compel the performance of any condition imposed under the provisions of this chapter. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and

enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises; and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 807 of this title at the termination of the license. (June 10, 1920, ch. 285, § 26, 41 Stat. 1076.)

#### REFERENCES IN TEXT

Proceedings in equity, referred to in the text, were abolished by the adoption of Rule 2 of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure, which provided that "there shall be one form of action to be known as 'civil action'".

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

#### FEDERAL RULES OF CIVIL PROCEDURE

Application of rules, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action to be known as "civil action," see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Writ of mandamus abolished, see rule 81 (b), Title 28, Appendix, Judiciary and Judicial Procedure.

§ 821. State laws and water rights unaffected.

Nothing contained in this chapter shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein. (June 10, 1920, ch. 285, § 27, 41 Stat. 1077.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "herein", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

§ 822. Reservation of right to alter or repeal chapter.

The right to alter, amend, or repeal this chapter is expressly reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this chapter or the rights of any licensee thereunder. (June 10, 1920, ch. 285, § 28, 41 Stat. 1077.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818, and 820—825r of this title] to this chapter.

## § 823. Repeal of inconsistent laws.

All Acts or parts of Acts inconsistent with this chapter are repealed: *Provided*, That nothing contained in this chapter shall be held or construed to modify or repeal any of the provisions of the Act of Congress approved December 19, 1913, granting certain rights-of-way to the city and county of San Francisco, in the State of California. (June 10, 1920, ch. 285, § 29, 41 Stat. 1077.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", and "herein", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTER-STATE COMMERCE

## § 824. Declaration of policy; application of subchapter; definitions.

(a) It is declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in sections 824—825r of this title and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

(b) The provisions of sections 824—824h of this title shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in said sections, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(c) For the purpose of sections 824—824h of this title, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

(d) The term "sale of electric energy at whole sale" when used in sections 824—824h of this title, means a sale of electric energy to any person for resale.

(e) The term "public utility" when used in sections 824—825r of this title means any person who owns or operates facilities subject to the jurisdiction of the Commission under sections 824—824h of this title.

(f) No provision in sections 824—824h of this title shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto. (June 10, 1920, ch. 285, § 201, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 847.)

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries.

## (a) Regional districts; establishment; notice to State commissions.

For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

## (b) Sale or exchange of energy; establishing physical connections.

Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, That the Commission shall have no authority

to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

**(c) Temporary connection and exchange of facilities during emergency.**

During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.

**(d) Temporary connection during emergency by persons without jurisdiction of Commission.**

During the continuance of any emergency requiring immediate action, any person engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: *Provided*, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed of upon the termination of such emergency: *Provided further*, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

**(e) Transmission of electric energy to foreign country.**

After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the

coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

**(f) Transmission or sale at wholesale of electric energy; regulation.**

The ownership or operation of facilities for the transmission or sale at wholesale of electric energy which is (a) generated within a State and transmitted from that State across an international boundary and not thereafter transmitted into any other State, or (b) generated in a foreign country and transmitted across an international boundary into a State and not thereafter transmitted into any other State, shall not make a person a public utility subject to regulation as such under other provisions of this subchapter. The State within which any such facilities are located may regulate any such transaction insofar as such State regulation does not conflict with the exercise of the Commission's powers under or relating to subsection (e) of this section. (June 10, 1920, ch. 285, § 202, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 847, and amended Aug. 7, 1953, ch. 343, 67 Stat. 461.)

**AMENDMENTS**

1953—Subsec. (f). Act Aug. 7, 1953, added subsec. (f).

**TRANSFER OF FUNCTIONS**

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

**EX. ORD. NO. 10485. PERFORMANCE OF FUNCTIONS RESPECTING ELECTRIC POWER AND NATURAL GAS FACILITIES LOCATED ON UNITED STATES BORDERS**

EX. ORD. NO. 10485, Sept. 3, 1953, 18 F. R. 5397, provided: SECTION 1. (a) The Federal Power Commission is hereby designated and empowered to perform the following-described functions:

(1) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the transmission of electric energy between the United States and a foreign country.

(2) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the exportation or importation of natural gas to or from a foreign country.

(3) Upon finding the issuance of the permit to be consistent with the public interest, and, after obtaining the favorable recommendations of the Secretary of State and the Secretary of Defense thereon, to issue to the applicant, as appropriate, a permit for such construction, operation, maintenance, or connection. The Commission shall have the power to attach to the issuance of the permit and to the exercise of the rights granted thereunder such conditions as the public interest may in its judgment require.

(b) In any case wherein the Federal Power Commission, the Secretary of State, and the Secretary of Defense cannot agree as to whether or not a permit should be issued, the Commission shall submit to the President for approval or disapproval the application for a permit

with the respective views of the Commission, the Secretary of State and the Secretary of Defense.

SEC. 2. The Chairman or Acting Chairman of the Federal Power Commission is hereby designated and empowered to sign any permits issued by the Federal Power Commission pursuant to section 1 (a) (3) hereof.

SEC. 3. The Federal Power Commission is authorized to issue such rules and regulations, and to prescribe such procedures, as it may from time to time deem necessary or desirable for the exercise of the authority delegated to it by this order.

SEC. 4. All Presidential Permits heretofore issued pursuant to Executive Order No. 8202 of July 13, 1939, and in force at the time of the issuance of this order, and all permits issued hereunder, shall remain in full force and effect until modified or revoked by the President or by the Federal Power Commission.

SEC. 5. Executive Order No. 8202 of July 13, 1939, is hereby revoked.

**§ 824b. Disposition of property; consolidations; purchase of securities.**

(a) No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so. Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. After notice and opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall approve the same.

(b) The Commission may grant any application for an order under this section in whole or in part and upon such terms and conditions as it finds necessary or appropriate to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may from time to time for good cause shown make such orders supplemental to any order made under this section as it may find necessary or appropriate. (June 10, 1920, ch. 285, § 203, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 849.)

**TRANSFER OF FUNCTIONS**

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

**§ 824c. Issuance of securities; assumption of liabilities; filing duplicate reports with Securities and Exchange Commission.**

(a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such is-

sue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective six months after Aug. 26, 1935.

(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Subsection (a) of this section shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than one year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of one year or less on which such public utility is primarily or secondarily liable) not more than 5 per centum of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within ten days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

(f) The provisions of this section shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Nothing in this section shall be construed to imply any guarantee or obligation on the part of the

United States in respect of any securities to which the provisions of this section relate.

(h) Any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under section 77g and sections 78l and 78m of Title 15. (June 10, 1920, ch. 285, § 204, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 850.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

All executive and administrative functions of the Securities and Exchange Commission were, with certain exceptions, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 10, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 78d of Title 15, Commerce and Trade.

#### § 824d. Rates and charges; schedules; suspension of new rates.

(a) All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

(b) No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(c) Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

(d) Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after thirty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes

will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the thirty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of such five months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period, but in case of a proposed increased rate or charge, the Commission may by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. (June 10, 1920, ch. 285, § 205, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 851.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 824e. Power of Commission to fix rates and charges; determination of cost of production or transmission.

(a) Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the

jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

(b) The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy. (June 10, 1920, ch. 285, § 206, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 852.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 824f. Ordering furnishing of adequate service.

Whenever the Commission, upon complaint of a State commission, after notice to each State commission and public utility affected and after opportunity for hearing, shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate, or sufficient service to be furnished, and shall fix the same by its order, rule, or regulation: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel the public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. (June 10, 1920, ch. 285, § 207, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 824g. Ascertainment of cost of property and depreciation.

(a) The Commission may investigate and ascertain the actual legitimate cost of the property of every public utility, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation, and the fair value of such property.

(b) Every public utility upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, ex-

tensions, and new construction. (June 10, 1920, ch. 285, § 208, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 824h. Joint boards; composition; references to boards by Commission; cooperation with State commissions.

(a) The Commission may refer any matter arising in the administration of sections 824—824h of this title to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this chapter to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement to the Commission by such State of the compensation and traveling expenses of such witnesses. All sums collected hereunder shall be

credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection. (June 10, 1920, ch. 285, § 209, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 853.)

#### REFERENCES IN TEXT

This chapter, referred to subsec. (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

### SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

#### § 825. Accounts, records and memoranda; duty to keep; examination by Commission; disclosure of information.

(a) Every licensee and public utility shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this chapter, including accounts, records, and memoranda of the generation, transmission, distribution, delivery, or sale of electric energy, the furnishing of services or facilities in connection therewith, and receipts and expenditures with respect to any of the foregoing: *Provided, however*, That nothing in this chapter shall relieve any public utility from keeping any accounts, memoranda, or records which such public utility may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by licensees and public utilities and may classify such licensees and public utilities and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays and receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of licensees and public utilities, and it shall be the duty of such licensees and public utilities to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so

to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

(c) The books, accounts, memoranda, and records of any person who controls, directly or indirectly, a licensee or public utility subject to the jurisdiction of the Commission, and of any other company controlled by such person, insofar as they relate to transactions with or the business of such licensee or public utility, shall be subject to examination on the order of the Commission. (June 10, 1920, ch. 285, § 301, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 854.)

#### REFERENCES IN TEXT

This chapter, referred to subsec. (a), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825a. Rates of depreciation; notice to State authorities before fixing.

(a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the jurisdiction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its



views, and shall receive and consider such views and recommendations. (June 10, 1920, ch. 285, § 302, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825b. Requirements applicable to agencies of United States.

All agencies of the United States engaged in the generation and sale of electric energy for ultimate distribution to the public shall be subject, as to all facilities used for such generation and sale, and as to the electric energy sold by such agency, to the provisions of sections 825 and 825a of this title, so far as may be practicable, and shall comply with the provisions of such sections and with the rules and regulations of the Commission thereunder to the same extent as may be required in the case of a public utility. (June 10, 1920, ch. 285, § 303, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.

(a) Every licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this chapter. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation, and other reserves, cost of project and other facilities, cost of maintenance and operation of the project and other facilities, cost of renewals and replacement of the project works and other facilities, depreciation, generation, transmission, distribution, delivery, use, and sale of electric energy. The Commission may require any such person to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

(b) It shall be unlawful for any person willfully to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, memorandum, record, or account required to be made,

filed, or kept under this chapter or any rule, regulation, or order thereunder. (June 10, 1920, ch. 285, § 304, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 855.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—826r of this title] to this chapter.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825d. Officials dealing in securities; declaring dividends out of capital account; interlocking directorates.

(a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) After six months from August 26, 1935, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on August 26, 1935, unless application for such authorization is filed with the Commission within sixty days after that date. (June 10, 1920, ch. 285, § 305, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856.)

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825e. Complaints.

Any person, State, municipality, or State commission complaining of anything done or omitted to be done by any licensee or public utility in contravention of the provisions of this chapter may apply to the Commission by petition which shall briefly state the facts, whereupon a statement of the complaint

thus made shall be forwarded by the Commission to such licensee or public utility, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. If such licensee or public utility shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating such complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall find proper. (June 10, 1920, ch. 285, § 306, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction; by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825f. Investigations by Commission; attendance of witnesses; depositions; immunity of witnesses.

(a) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this chapter or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this chapter or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates. The Commission may permit any person to file with it a statement in writing under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish or make available to State commissions information concerning any such subject.

(b) For the purpose of any investigation or any other proceeding under this chapter, any member of the Commission, or any officer designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the Commission to appear before it shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides

or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

(d) The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition, at any time after the proceeding is at issue. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person authorized to administer oaths not being of counsel or attorney to either of the parties, nor interested in the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(e) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this chapter, and the person or officer taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(g) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpoena of the Commission or any member thereof or any officer designated by

it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. (June 10, 1920, ch. 285, § 307, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 856.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

## § 825g. Hearings; rules of procedure.

(a) Hearings under this chapter may be held before the Commission, any member or members thereof or any representative of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before it, the Commission, in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

(b) All hearings, investigations, and proceedings under this chapter shall be governed by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation issued under the authority of this chapter. (June 10, 1920, ch. 285, § 308, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 858.)

## REFERENCES IN TEXT

This chapter, referred to subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with

authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825h. Administrative powers of Commission; rules, regulations, and orders.

The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this chapter; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours. (June 10, 1920, ch. 285, § 309, as added Aug. 26, 1935, ch. 685, title II, § 213, 49 Stat. 858.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825i. Appointment of officers and employees; compensation.

The Commission may, subject to civil-service laws, appoint such officers and employees as are necessary for carrying out its functions under this chapter and fix their salaries in accordance with the Classification Act of 1949. (June 10, 1920, ch. 285, § 310, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859, and amended Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

The civil-service laws, referred to in the text, are classified generally to Title 5, Executive Departments and Government Officers and Employees.

The Classification Act of 1949, referred to in the text, is classified to chapter 21 of Title 5.

## CODIFICATION

Provisions which authorized the Commission to appoint and fix the compensation of such officers, attorneys, examiners, and experts as may be necessary for carrying out its functions under this chapter without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States were omitted since the positions referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by section 631a of Title 5, Executive Departments and Government Officers and Employees. By Executive Order 8743, Apr. 25, 1941 set out as a note under section 631a of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see sections 1081 and 1082 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 1083 of Title 5.

## AMENDMENTS

1949—Act Oct. 28, 1949, substituted the "Classification Act of 1949" for "Classification Act of 1923".

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825j. Investigations relating to electric energy; reports to Congress.

In order to secure information necessary or appropriate as a basis for recommending legislation, the Commission is authorized and directed to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or of any State or municipality or other political subdivision of a State. It shall, so far as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for such generation, transmission, distribution, and sale; the capacity and output thereof and the relationship between the two; the cost of generation, transmission, and distribution; the rates, charges, and contracts in respect of the sale of electric energy and its service to residential, rural, commercial, and industrial consumers and other purchasers by private and public agencies; and the relation of any or all such facts to the development of navigation, industry, commerce, and the national defense. The Commission shall report to Congress the results of investigations made under authority of this section. (June 10, 1920, ch. 285, § 311, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859.)

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his

jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825k. Publication and sale of reports.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services. The amounts collected under this section shall be deposited in the Treasury to the credit of miscellaneous receipts. All printing for the Federal Power Commission making use of engraving, lithography, and photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commission, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Commission shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe. The entire work may be done at, or ordered through, the Government Printing Office whenever, in the judgment of the Joint Committee on Printing, the same would be to the interest of the Government: *Provided*, That when the exigencies of the public service so require, the Joint Committee on Printing may authorize the Commission to make immediate contracts for engraving, lithographing, and photolithographing, without advertisement for proposals: *Provided further*, That nothing contained in this chapter or any other Act shall prevent the Federal Power Commission from placing orders with other departments or establishments for engraving, lithographing, and photolithographing, in accordance with the provisions of sections 686 and 686b of Title 31, providing for interdepartmental work. (June 10, 1920, ch. 285, § 312, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 859.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825l. Rehearings; court review of orders.

(a) Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this chapter to which such person, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order.

The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any person unless such person shall have made application to the Commission for a rehearing thereon. Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b) of this section, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.

(b) Any party to a proceeding under this chapter aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the United States court of appeals for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of Title 28. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari

or certification as provided in sections 346 and 347 of Title 28.

(c) The filing of an application for rehearing under subsection (a) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order. (June 10, 1920, ch. 285, § 313, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 860, and amended June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1958, Pub. L. 85-791, § 16, 72 Stat. 947.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a-793, 795-797, 798-818 and 820-825r of this title] to this chapter.

Sections 346 and 347 of Title 28, referred to in the text, were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948, and are now covered by section 1254 of Title 28, Judiciary and Judicial Procedure.

#### AMENDMENTS

1958—Subsec. (a). Pub. L. 85-791, § 16 (a), added sentence to provide that Commission may modify or set aside findings or orders until record has been filed in court of appeals.

Subsec. (b). Pub. L. 85-791, § 16 (b), in second sentence, substituted "transmitted by the clerk of the court to" for "served upon", substituted "file with the court" for "certify and file with the court a transcript of", and inserted "as provided in section 2112 of Title 28", and in third sentence, substituted "jurisdiction, which upon the filing of the record with it shall be exclusive" for "exclusive jurisdiction".

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "court of appeals" for "circuit court of appeals".

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

**§ 825m. Restraining violations; mandamus to compel compliance with law; employment of attorneys.**

(a) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper District Court of the United States, the United States District Court for the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may insti-

tute the necessary criminal proceedings under this chapter.

(b) Upon application of the Commission the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder.

(c) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission. (June 10, 1920, ch. 285, § 314, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 861, and amended June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32 (b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia".

Supreme Court of District of Columbia was redesignated as "district court of the United States for the District of Columbia" by act June 25, 1936.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### FEDERAL RULES OF CIVIL PROCEDURE

Writ of mandamus abolished, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

#### § 825n. Forfeiture for violations; recovery.

(a) Any licensee or public utility which willfully fails, within the time prescribed by the Commission, to comply with any order of the Commission, to file any report required under this chapter or any rule or regulation of the Commission thereunder, to submit any information or document required by the Commission in the course of an investigation conducted under this chapter, or to appear by an officer or agent at any hearing or investigation in response to a subpoena issued under this chapter, shall forfeit to the United States an amount not exceeding \$1,000 to be fixed by the Commission after notice and opportunity for hearing. The imposition or payment of any such forfeiture shall not bar or affect any penalty prescribed in this chapter but such forfeiture shall be in addition to any such penalty.

(b) The forfeitures provided for in this chapter shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States, brought in the district where the person is an inhabitant or has his principal place of business, or if a licensee or public utility, in any district in which such licensee or public utility transacts business. It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this chapter. The costs and expenses of such prosecution shall be paid from the appropriations for the expenses of the courts of the United States. (June 10, 1920, ch. 285, § 315, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 861, and amended June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

#### REFERENCES IN TEXT

This chapter, referred in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 501 of Title 28, Judiciary and Judicial Procedure.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### § 825o. Penalties.

(a) Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this chapter required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this chapter, or any rule or regulation imposed by the Secretary of the Army under authority of subchapter I of this chapter shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding \$500 for each and every day during which such offense occurs. (June 10, 1920, ch. 285, § 316, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 862.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

Subchapter I of this chapter, referred to in subsec. (b), was in the original "Part I of this Act", meaning Part I of act June 10, 1920, which is classified to sections 792, 793, 795—797, 798—818 and 820—823 of this title.

## CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## § 825p. Jurisdiction of offenses; enforcement of liabilities and duties.

The District Courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this chapter or any rule, regulation, or order thereunder. Any criminal proceeding shall be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this chapter or any rule, regulation, or order thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 225 and 347 of Title 28. No costs shall be assessed against the Commission in any judicial proceeding by or against the Commission under this chapter. (June 10, 1920, ch. 285, § 317, as added Aug. 28, 1935, ch. 687, title II, § 213, 49 Stat. 862, and amended June 25, 1936, ch. 804, 49 Stat. 1921.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

Sections 225 and 347 of Title 28, referred to in the text, were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948, and are now covered by sections 21 and 45 of Title 15, Commerce and Trade, Title 11, Bankruptcy, section 3731 of Title 18, Crimes and Criminal Procedure, and sections 1254 and 1291—1294 of Title 28, Judiciary and Judicial Procedure.

## CODIFICATION

Reference to "the District Court of the United States for the District of Columbia" was omitted as superfluous in view of act June 25, 1948, ch. 646, 62 Stat. 875, 895, which states that "there shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and that "The District of Columbia constitutes one judicial district". See sections 88 and 132 of Title 28, Judiciary and Judicial Procedure.

## CHANGE OF NAME

Supreme Court of District of Columbia was redesignated as "District Court of the United States for the District of Columbia" by act June 25, 1936.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

## FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 54, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Costs, see rule 54, Title 28, Appendix.

One form of action to be known as "civil action," see rule 2, Title 28, Appendix.

## § 825q. Conflict of jurisdiction.

If, with respect to the issue, sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports, or the acquisition or disposition of any security, capital assets, facilities, or any other subject matter, any person is subject both to a requirement of sections 79 to 79z-6 of Title 15 or of a rule, regulation, or order thereunder and to a requirement of this chapter or of a rule, regulation, or order thereunder, the requirement of sections 79 to 79z-6 of Title 15 shall apply to such person, and such person shall not be subject to the requirement of this chapter, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of sections 79 to 79z-6 of Title 15, in which case the requirements of this chapter shall apply to such person. (June 10, 1920, ch. 285, § 318, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

## REFERENCES IN TEXT

This chapter, referred to in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.

References in text to sections 79 to 79z-6 of Title 15, were in the original references to the "Public Utility Holding Company Act of 1935," which is classified to such sections.

## § 825r. Separability of provisions.

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (June 10, 1920, ch. 285, § 319, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 10, 1920, which by section 791a of this title is known as the "Federal Power Act", and is classified generally [sections 791a—793, 795—797, 798—818 and 820—825r of this title] to this chapter.



§ 825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys.

Electric power and energy generated at reservoir projects under the control of the Department of the Army and in the opinion of the Secretary of the Army not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts. (Dec. 22, 1944, ch. 665, § 5, 58 Stat. 890.)

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

#### TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, § 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of this title.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 825s-1. Same; southwestern area; disposition of receipts; creation of continuing fund; use of fund.

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southwestern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and

maintain from such receipts a continuing fund of \$300,000, including the sum of \$100,000 in the continuing fund established under the Administrator of the Southwestern Power Administration in the First Supplemental National Defense Appropriation Act, 1944 (57 Stat. 621), which shall be transferred to the fund established; and said fund of \$300,000 shall be placed to the credit of the Secretary and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of the facilities, and to cover all costs in connection with the purchase of electric power and energy and rentals for the use of facilities for the transmission and distribution of electric power and energy to public bodies, cooperatives, and privately owned companies: *Provided*, That expenditures from this fund to cover such costs in connection with the purchase of electric power and energy and rentals for the use of facilities are to be made only in such amounts as may be approved annually in appropriation Acts. (Oct. 12, 1949, ch. 680, title I, § 101, 63 Stat. 767; Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 249.)

#### REFERENCES IN TEXT

The First Supplemental National Defense Appropriation Act, 1944, referred to in the text was the act of Dec. 23, 1943, ch. 380, title I, § 101, 57 Stat. 621, which was not classified to the Code.

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

#### AMENDMENTS

1951—Act Aug. 31, 1951, added the proviso.

§ 825s-2. Same; southeastern area; disposition of receipts; creation of continuing fund; use of fund.

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southeastern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of \$50,000, and said fund shall be placed to the credit of the Secretary, and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of Government facilities in said area. (Aug. 31, 1951, ch. 375, title I, § 101, 65 Stat. 249.)

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

§ 825t. Utilization of power revenues.

#### CODIFICATION

Section, act July 1, 1946, ch. 529, § 1, 60 Stat. 366, was from the Interior Department Appropriation Act, 1947, and was not repeated in the Interior Department Appropriation Act, 1948, act July 25, 1947, ch. 337, 61 Stat. 460.

§ 825u. Interest rate on power bonds held by Administrator of General Services.

The Administrator of General Services or his successor in interest is authorized to reduce the rate of interest to 2½ per centum on all power bonds held by such Agency issued by States, public authorities, counties, municipalities, and other subdivisions of State governments for power projects

financed by the Public Works Administration. (July 31, 1946, ch. 710, § 6, 60 Stat. 744; June 30, 1949, ch. 288, title I, § 103 (a), 63 Stat. 380.)

#### CODIFICATION

This section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

#### TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of said act. Said section 103 is set out as section 630b of Title 5, Executive Departments and Government Officers and Employees.

All functions of the Public Works Administration were transferred to the Federal Works Administrator by Ex. Ord. No. 9357, June 30, 1943, 8 F. R. 9041. See note under former sections 401-411 of Title 40, Public Buildings, Property and Works.

#### EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions of Federal Works Agency effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

### SUBCHAPTER IV.—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

§ 828. Facilitation of development and construction of water conservation facilities; exemption from certain Federal requirements.

In order to facilitate the development and construction by States and municipalities of water conservation facilities, certain requirements in this chapter are made inapplicable to States and municipalities as provided in this subchapter. (Aug. 15, 1953, ch. 503, § 1, 67 Stat. 587.)

#### REFERENCES IN TEXT

This chapter, referred to in the text, was in the original, "the Federal Power Act", which is classified generally [sections 791a-793, 795-797, 798-818 and 820-825r of this title] to this chapter.

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

#### § 828a. Definitions.

The words used in this subchapter shall have the same meanings ascribed to them in this chapter. (Aug. 15, 1953, ch. 503, § 2, 67 Stat. 587.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "the Federal Power Act", which is classified generally [sections 791a-793, 795-797, 798-818 and 820-825r of this title] to this chapter.

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

§ 828b. Exemption from formula, books and records, and project cost statement requirements; annual charges.

Section 807 of this title pertaining to the taking over by the United States of any project upon or after the expiration of a license, and sections 825 and 825a of this title requiring certain records and accounting procedures and section 797 (b) of this title requiring the preparation and filing of the statement of actual legitimate original cost of a project, shall not be applicable to any project owned by a State or municipality, and such rights and re-

quirements shall not exist under any license heretofore or hereafter granted to any State or municipality. The Federal Power Commission in determining the amount of annual charges applicable to any such project may determine the annual charges with reference to the actual cost of services incurred by the Commission with respect to the project. (Aug. 15, 1953, ch. 503, § 3, 67 Stat. 587; July 31, 1959, Pub. L. 86-124, 73 Stat. 271.)

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

#### AMENDMENTS

1959—Pub. L. 86-124 deleted at the end of the first sentence the clause "except that the provisions of sections 797(b) and 807 of this title shall continue to be applicable to any license issued for a hydroelectric development in the International Rapids section of the Saint Lawrence River".

#### § 828c. Applicability of this chapter.

Except as herein provided, the provisions of this subchapter shall not be construed as repealing or affecting any of the provisions of this chapter. (Aug. 15, 1953, ch. 503, § 4, 67 Stat. 587.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "the Federal Power Act", which is classified generally [sections 791a-793, 795-797, 798-818 and 820-825r of this title] to this chapter.

#### CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

### Chapter 12A.—TENNESSEE VALLEY AUTHORITY

#### Sec.

831. Tennessee Valley Authority created.

831a. Directors; number; appointment and terms of office; compensation; interest in competing business forbidden.

831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation act.

831c. Corporate powers generally; eminent domain; construction of dams, transmission lines, etc.

831c-1. Bridges endangered or damaged by dams, etc.; compensation of and contracts with owner for protection, replacement, etc.

831d. Directors; maintenance and operation of plant for production, sale, and distribution of fertilizer and power.

831e. Officers and employees; nonpolitical appointment; removal for violation.

831f. Control of plants and property vested in corporation; transfer of other property to corporation.

831g. Principal office of corporation; account books; directors' oath of office.

831h. Annual financial statement; purchases and contracts; audit by Comptroller General.

831h-1. Operation of dams primarily for promotion of navigation and controlling floods; generation and sale of electricity.

831h-2. Repealed.

831i. Sale of surplus power; preferences; experimental work; acquisition of existing electric facilities.

831j. Equitable distribution of surplus power among States and municipalities; improvement in production of fertilizer.

831k. Transmission lines; construction or lease; sale of power over other than Government lines; rates when sold for resale at profit.

831k-1. Extension of credit to States, municipalities and nonprofit organizations to assist in operation of existing facilities.